IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

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**WRIT PETITION NO : 15621 of 2005**

Between:

K. Hampaiah Swamy, S/o. K.Erri Swamy, Hindu,
R/o. H.No.45-142-31-L, Venkata Ramana Colony, Hyderabad.

**..... PETITIONER**

AND

1. The Deputy Transport Commissioner, Kurnool.
2. The Motor Vehicles Inspector, Kurnool-II.
3. The Vigilance & Enforcement Officer, Vigilance & Enforcement Department Kurnool.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a appropriate writ order or direction, particularly one in the nature of a writ of Mandamus declaring Memo No.9260/A2/2001 dated 27.06.2005, issued by the respondent No.1 as arbitrary, illegal, unjust, violative of the ratio laid down by this Hon'ble court may in 2003(5)ALT 601 reported in "M. Muralidhar Reddy (Died) and others v Deputy Commissioner & Secretary, Regional Transport Authority, Kurnool and others violative of principles of Natural Justice, Violative of the mandatory provisions of the Motor Vehicles Act 1988 and the rules framed thereunder from time to time on the subject and also violative of Articles 14,19 (1) (g) of the constitution of India.

**Counsel for the Petitioner: MR.G.NARENDER RAJ**

**Counsel for the Respondents: GP FOR TRANSPORT**

**The Court at the admission stage made the following:**

**ORDER:**

This writ petition is filed by the petitioner aggrieved by the impugned order passed by the first respondent dated 27.06.2005, under which, he was directed to deposit a sum of Rs.2,56,700/- towards compounding fee in view of the dismissal order passed by this Court in W.P.No.9371 of 2005 dated 09.06.2005.

It is stated that the petitioner filed the above writ petition before this Court questioning the show cause notice dated 13.10.2001 and the said writ petition was dismissed by this Court without going into the merits as it was only against the show cause notice. However, the first respondent passed the impugned order as if there was a direction from this Court to collect the compounding fee as specified in the impugned order. The said action, according to the petitioner, is illegal and without jurisdiction apart from the fact that the first respondent did not apply his mind to the facts of the case.

The learned Government Pleader for Transport has fairly conceded that this Court never directed the respondents to collect any

compounding fee, but only dismissed the writ petition as it was against the show cause notice.

Heard both sides and considered the material on record.

The impugned order passed by the first respondent as if there is a direction by this Court in the above referred writ petition is clearly illegal, as this Court never directed the first respondent to collect any compounding fee while dismissing the writ petition filed by the petitioner against the show cause notice.

Under the above circumstances, the impugned order is set aside. However, the first respondent is directed to apply his mind to the show cause notice, the allegations made therein and the explanation offered by the petitioner and pass appropriate orders in accordance with law.

The writ petition is accordingly disposed of. No costs.

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19.07.2005

Note: Issue CC in two days.

(b/o)

VGB

To

1. The Deputy Transport Commissioner, Kurnool.
2. The Motor Vehicles Inspector, Kurnool-II.
3. The Vigilance & Enforcement Officer, Vigilance & Enforcement Department Kurnool.
4. 2CCs to the Government Pleader for Transport, High Court Buildings, Hyderabad. (OUT)
5. 2CD copies.